

REMARKS

The present application has 21 claims with Claims 1, 13, 20, and 21 being independent claims. All claims stand rejected. Claim 8 has been indicated as being allowable if rewritten.

35 U.S.C. § 112:

Claims 1-12 and 15 were rejected under 35 U.S.C. § 112, second paragraph. The Applicant has addressed each of these matters.

35 U.S.C. § 102:

Claims 1, 3, and 13 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2004/0112948 to Boone. The Applicant has amended each of the independent claims to specify that the corner flaps have a rectangular shape. The Applicant submits that this amendment clearly overcomes the rejection.

Claims 1, 13, 19, and 20 were rejected under 35 U.S.C. § 102(b) as being anticipated by European Publication No. 0066029 to Mazocky. The Applicant submits that the claims as amended are patentable for the reasons described above.

Claims 1-3, 6, 7, 13, 19-21 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,520,325 to Quaintance. The Applicant submits that the claims as amended are patentable for the reasons described above.

Claims 1-7, 9, 13, and 19-21 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,676,013 to Auclair. The Applicant submits that the claims as amended are patentable for the reasons described above.

35 U.S.C. § 103:

Claims 11 and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Boone, in view of U.S. Patent No. 2,115,673 to Stompe, U.S. Patent No. 2,754,047 to Schmidt, or U.S. Patent No. 4,214,660 to Hunt. The Applicant submits that the claims as amended are patentable for the reasons described above.

Claim 12 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Auclair in view of U.S. Patent Publication No. 2004/0188509 to Holley, Jr. in view of anyone of Stompe, Schmidt, or Hunt. The Applicant submits that the claims as amended are patentable for the reasons described above.

Claims 10 and 14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Quaintance. Although these claims have been cancelled, the limitations therein have been added to the independent claims. Quaintance was described as disclosing all of the claimed structure other than the corner flaps/posts being in the form of a rectangle. Although not found in the reference, the use of such a shape was considered as being an obvious design choice. The Applicant respectfully traverses the rejection.

As stated in the specification, the use of the rectangular corner posts 470, 480, enclose the products 700 therein in three dimensions and also add structural strength to the carton as a whole:

Once the removable portion **455** is removed, the first corner post **470** and the second corner post **480** remain along the top panel **150**, the side panels **170**, **180**, and the tabs **350**, **370**, **380**. The corner post **470**, **480** enclose the products **700** in three (3) dimensions so as to allow the products **700** to remain firmly in place within the carton **100** in almost any orientation. The corner posts **470**, **480** also add structural strength to the carton **100** as a whole. As a result, the carton **100** has improved stackability.

See Paragraph 37.

The Applicant thus submits that the benefits provided by the use of the rectangular corner posts in the context of the claims as a whole are amply supported in the specification and cannot be considered a matter of design choice. Rather, the claims as a whole define a carton that maintains the products therein in any orientation while providing easy access to the products therein. The Applicant therefore submits that the claims are patentable over the cited references.

Claim 15 was rejected under 35 U.S.C. § 103(a) as being unpatentable either over Auclair or Boone. The Applicant respectfully traverse the rejection for the reasons described above.

Claim 16 and 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over any one of Quaintance, Boone, Auclair or Mazocky. The Applicant respectfully traverses the rejections for the reasons described above.

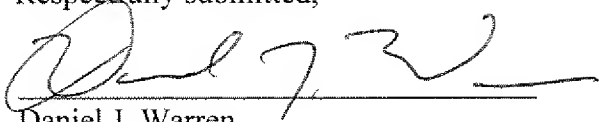
Allowable Subject Matter:

Claim 8 was indicated as being allowable if rewritten. The Applicant has done so.

CONCLUSION

The Applicant believes it has responded to each matter raised in the Office Action. Allowance of all claims is respectfully solicited. Any questions may be directed to the undersigned at 404-853-8028.

Respectfully submitted,



Daniel J. Warren
Reg. No. 34,272

SUTHERLAND ASBILL & BRENNAN LLP

999 Peachtree Street, N.E.
Atlanta, Georgia 30309-3996
(404) 853-8000
(404) 853-8806 (Facsimile)
daniel.warren@sablaw.com

SAB Docket No. 25040-1155